

UNITED STATES OF AMERICA

v.

KYLE M. LEEPER,
also known as "Bud," "Freddy,"
and "Shorty,"
RAMON L. NIEVES COTTO,
also known as "Ray,"
EDGAR J. ARREDONDO,
also known as "Dino" and "Papi,"
JOSE PIMENTEL, JR.,
also known as "Matthew
Zimmerman," "Gordo Kennels,"
and "Jorge Kutthroats,"
and
CRYSTAL J. STEPHENS,

Defendants.

Criminal No. 5:19-CR-301 (DNH)

Second Superseding Indictment

Violations: 21 U.S.C. § 848(e)(1)(A)
[Intentional Killing by a Person
Engaged in a Controlled
Substance Offense]

21 U.S.C. §§ 846 & 841(a)(1)
[Conspiracy to Distribute and
Possess with Intent to Distribute
Controlled Substances]

21 U.S.C. § 841(a)(1)
[Possession with Intent to
Distribute a Controlled
Substance]

18 U.S.C. § 924(c) and (j)(1)
[Discharge and Murder by Use
of a Firearm During and In
Relation to a Drug-Trafficking
Crime]

18 U.S.C. § 922(g)(1)
[Possession of a Firearm and
Ammunition by a Felon]

Five Counts and Forfeiture Allegations

County of Offense: Cortland

THE GRAND JURY CHARGES:

COUNT ONE

[Intentional Killing by a Person Engaged in a Controlled Substance Offense]

On or about January 17, 2019, defendant **KYLE M. LEEPER**, also known as "Bud," "Freddy," and "Shorty," while engaging in an offense punishable under Section 841(b)(1)(A) of

Title 21 of the United States Code, specifically a conspiracy occurring in Cortland County in the Northern District of New York and elsewhere from around December 2018 to on and beyond February 19, 2019, to knowingly and intentionally distribute and possess with intent to distribute one or more controlled substances, which violation involved 50 grams or more of methamphetamine, intentionally killed another person, with such killing resulting, in that defendant **KYLE M. LEEPER** repeatedly shot Robert Chavez with a firearm, thereby killing him, all in violation of Title 21, United States Code, Section 848(e)(1)(A).

On or about January 17, 2019, defendant **RAMON L. NIEVES COTTO**, also known as “Ray,” aided and abetted the above-described offense, in that defendant **RAMON L. NIEVES COTTO** purchased zip ties used to bind Robert Chavez to make it easier for defendant **KYLE M. LEEPER** to shoot and kill Chavez, all in violation of Title 21, United States Code, Section 848(e)(1)(A) and Title 18, United States Code, Section 2(a). In addition, defendant **RAMON L. NIEVES COTTO**, as a member of the conspiracy described in Count Two, is criminally liable for the above-described violation of Title 21, United States Code, Section 848(e)(1)(A) under *United States v. Pinkerton*, 328 U.S. 640 (1946).

COUNT TWO

[Conspiracy to Distribute and Possess with Intent to Distribute Controlled Substances]

From around December 2018 to on or about April 2019, in Cortland County in the Northern District of New York and elsewhere, defendants **KYLE M. LEEPER**, also known as “Bud,” “Freddy,” and “Shorty”; **RAMON L. NIEVES COTTO**, also known as “Ray”; **EDGAR J. ARREDONDO**, also known as “Dino” and “Papi”; **JOSE PIMENTEL, JR.**, also known as “Matthew Zimmerman,” “Gordo Kennels,” and “Jorge Kutthroats”; and **CRYSTAL J. STEPHENS** conspired with each other and others to knowingly and intentionally distribute and

possess with intent to distribute one or more controlled substances, in violation of Title 21, United States Code, Sections 841(a)(1) and 846. As to defendants **KYLE M. LEEPER, RAMON L. NIEVES COTTO, EDGAR J. ARREDONDO, JOSE PIMENTEL, JR., and CRYSTAL J. STEPHENS**, that violation involved 50 grams or more of methamphetamine, a schedule II controlled substance, in violation of Title 21, United States Code, Section 841(b)(1)(A).

COUNT THREE
[Possession with Intent to Distribute a Controlled Substance]

On or about February 19, 2019, in Cortland County in the Northern District of New York, defendant **KYLE M. LEEPER**, also known as “Bud,” “Freddy,” and “Shorty” knowingly and intentionally possessed with intent to distribute a controlled substance, in violation of Title 21, United States Code, Section 841(a)(1), which violation involved 50 grams or more of methamphetamine, a schedule II controlled substance, in violation of Title 21, United States Code, Section 841(b)(1)(A).

COUNT FOUR
**[Discharge of and Murder by Use of a Firearm
During and In Relation to a Drug-Trafficking Crime]**

On or about January 17, 2019, defendant **KYLE M. LEEPER**, also known as “Bud,” “Freddy,” and “Shorty,” knowingly and intentionally used and carried a firearm—specifically a .380 caliber pistol fitted with a barrel with six grooves and a left twist—during and in relation to a drug trafficking crime for which a person may be prosecuted in a court of the United States—specifically, a conspiracy occurring in Cortland County in the Northern District of New York and elsewhere to knowingly and intentionally distribute and possess with intent to distribute one or more controlled substances, in violation of Title 21, United States Code, Sections 841(a)(1) and

846—and knowingly possessed such firearm in furtherance of such federal crime, and intentionally discharged such firearm and by doing so caused the death of a person through the use of such firearm, which killing was murder as defined in Title 18, United States Code, Section 1111(a), in that defendant **KYLE M. LEEPER** unlawfully shot and killed Robert Chavez with malice aforethought and did so (a) willfully, deliberately, and maliciously, and with premeditation, and (b) during the perpetration of a kidnapping, in violation of Title 18, United States Code, Section 1201, all in violation of Title 21, United States Code, Section 924(c)(1)(A)(iii) and (j)(1).

On or about January 17, 2019, defendant **RAMON L. NIEVES COTTO**, also known as “Ray,” aided and abetted the above-described offense, in that defendant **RAMON L. NIEVES COTTO** purchased zip ties used to bind Robert Chavez to make it easier for defendant **KYLE M. LEEPER** to shoot and kill Chavez, in violation of Title 18, United States Code, Sections 924(c)(1)(A)(iii) and (j)(1), and 2(a). In addition, defendant **RAMON L. NIEVES COTTO**, a member of the conspiracy described in Count Two, is criminally liable for the above-described violations of Title 18, United States Code, Section 924(c)(1)(A)(iii), and (j)(1) under *United States v. Pinkerton*, 328 U.S. 640 (1946).

COUNT FIVE
[Possession of a Firearm and Ammunition by a Felon]

On or about February 19, 2019, in Cortland County in the Northern District of New York, defendant **KYLE M. LEEPER**, also known as “Bud,” “Freddy,” and “Shorty,” knowing that he previously had been convicted in a court of a crime punishable by imprisonment for a term exceeding one year, knowingly possessed in and affecting commerce a firearm and ammunition, all of which had been shipped and transported in interstate commerce, specifically: a COBRA Enterprises, Inc. Model FS380, .380 caliber pistol, serial number FS115720, manufactured in Utah; 149 rounds of Remington UMC Brand .380 caliber ammunition manufactured in Arkansas;

one (1) round of Remington 9mm Luger ammunition manufactured in Arkansas; one (1) round of Winchester 9mm Luger (silver) ammunition manufactured in Illinois or Mississippi; two (2) rounds of Winchester 9mm Luger (gold) ammunition manufactured in Illinois or Mississippi; one (1) round of Winchester 9mm Luger (WCC) ammunition manufactured in Illinois or Mississippi; one (1) round of Speer 9mm Luger ammunition manufactured in Idaho; and one (1) round of Speer 9mm Luger ammunition manufactured in Idaho, all in violation of Title 18, United States Code, Sections 922(g)(1) and 924(a)(2).

**COUNTS ONE AND FOUR: NOTICE OF SPECIAL FINDINGS
PURSUANT TO TITLE 18, UNITED STATES CODE, SECTIONS 3591 AND 3592**

As to Counts One and Four, defendant **KYLE M. LEEPER**, also known as “Bud,” “Freddy,” and “Shorty”:

1. Was 18 years of age or older at the time of the offense (18 U.S.C. § 3591(a));
2. Intentionally killed the victim (18 U.S.C. § 3591(a)(2)(A));
3. Intentionally inflicted serious bodily injury that resulted in the death of the victim (18 U.S.C. § 3591(a)(2)(B));
4. Intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a result of the act (18 U.S.C. § 3591(a)(2)(C));
5. Intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act (18 U.S.C. § 3591(a)(2)(D));

All pursuant to Title 18, United States Code, Section 3591.

As to Counts One and Four, defendant **KYLE M. LEEPER**, also known as “Bud,” “Freddy,” and “Shorty”:

6. Committed the offense during the commission of another crime, an offense under 18 U.S.C. §1201, to wit kidnapping, (18 U.S.C. § 3592(c)(1));
7. Committed the offense after substantial planning and premeditation to cause the death of a person (18 U.S.C. § 3592(c)(9));

All pursuant to Title 18, United States Code, Section 3592.

Non-Statutory Aggravating Factors Identified under 18 U.S.C. § 3593(a)(2):

8. Defendant **KYLE M. LEEPER**, also known as “Bud,” “Freddy,” and “Shorty,” caused injury, harm, and loss to the victim’s family as demonstrated by the victim’s personal characteristics as an individual human being and the impact of the victim’s death upon his family. 18 U.S.C. §3593(a).

As to Counts One and Four, defendant **RAMON L. NIEVES COTTO**, also known as “Ray”:

1. Was 18 years of age or older at the time of the offense (18 U.S.C. § 3591(a));
2. Intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act (18 U.S.C. § 3591(a)(2)(D));

All pursuant to Title 18, United States Code, Section 3591.

As to Counts One and Four, defendant **RAMON L. NIEVES COTTO**, also known as “Ray”:

3. Committed the offense during the commission of another crime, an offense under 18 U.S.C. §1201, to wit kidnapping, (18 U.S.C. § 3592(c)(1));
4. Committed the offense after substantial planning and premeditation to cause the death of a person (18 U.S.C. § 3592(c)(9));

All pursuant to Title 18, United States Code, Section 3592.

Non-Statutory Aggravating Factors Identified under 18 U.S.C. § 3593(a)(2):

5. Defendant **RAMON L. NIEVES COTTO**, also known as “Ray,” caused injury, harm, and loss to the victim’s family as demonstrated by the victim’s personal characteristics as an individual human being and the impact of the victim’s death upon his family. 18 U.S.C. §3593(a).

FORFEITURE ALLEGATIONS

1. The allegation contained in Count Two of this second superseding is hereby realleged and incorporated by reference for the purpose of alleging forfeiture pursuant to Title 21, United States Code, Section 853.

2. Pursuant to Title 21, United States Code, Section 853, upon conviction of an offense in violation of Title 21, United States Code, Sections 841(a)(1) and 846, defendant **KYLE M. LEEPER**, also known as “Bud,” “Freddy,” and “Shorty,” shall forfeit to the United States of America any property constituting, and derived from, any proceeds obtained, directly or indirectly, as the result of such offense; and any property used, and intended to be used, in any manner or part, to commit, and to facilitate the commission of, the offense. The property to be forfeited includes, but is not limited to, the following:

- a. \$421.00 in U.S. currency.

3. The allegations contained in Count Five of this first superseding indictment are hereby realleged and incorporated by reference for the purpose of alleging forfeiture pursuant to Title 18, United States Code, Section 924(d), and Title 28, United States Code, Section 2461(c).

4. Upon conviction of the offense in violation of Title 18, United States Code, Sections 922(g)(1) and 924(a)(2), set forth in Count Five of this first superseding indictment, defendant **KYLE M. LEEPER**, also known as “Bud,” “Freddy,” and “Shorty,” shall forfeit to the United States pursuant to Title 18, United States Code, Section 924(d) and Title 28, United States Code, Section 2461(c), any firearms and ammunition involved in the commission of the offense, that is:

- a. A COBRA Enterprises, Inc. Model FS380, .380 caliber pistol, serial number FS115720; and
- b. 149 rounds of Remington UMC Brand .380 caliber ammunition; one (1) Remington 9mm Luger ammunition; one (1) round of Winchester 9mm Luger (silver) ammunition; two (2) rounds of Winchester 9mm Luger (gold) ammunition; one (1) round of Winchester 9mm Luger (WCC) ammunition; one (1) round of Speer 9mm Luger ammunition; and one (1) round of Speer 9mm Luger ammunition.

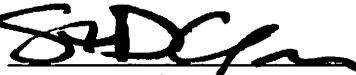
Dated: November 5, 2020

A TRUE BILL ***NAME REDACTED


Grand Jury Foreperson

ANTONETTE T. BACON
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By:


Steven D. Clymer
Assistant United States Attorney
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